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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,377	03/04/2002	Mu-III Lim	CP-1241	6666

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EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/090,377

Applicant(s)

LIM ET AL.

Examiner

Eisa B Elhilo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Claims 1-18 are pending in this application.

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the format of the abstract is improper. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clausen et al. (US 5,061,289) in view of Rose et al. (US 4,900,325).

Clausen (US' 289) teaches a hair dyeing composition comprising a developer substance of diaminopyrazol of a formula (I), which is similar to the claimed formula (5), when in the reference's formula (I), all R¹ to R⁴ are represent hydrogen atoms (see col. 2, formula (I) and

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lines 9-16) and when in the claimed formula (5), R₆, R₇ and R₈ are hydrogen atoms. The composition further comprises an oxidizing agent in the amount of 6% (effective amount) as claimed in claims 4 and 7 (see col. 3, lines 57-68) and total quantity of the combination of developer and coupler substances in the amount of 0.1 to 5.0% by weight (see col. 2, lines 48-51). Clausen also teaches a method for dyeing hair comprising applying to the hair the dyeing composition as described above and allowing the composition to remain in the hair for a period of time sufficient to color the hair and removing the composition from hair as claimed in claims 13-18 (see col. 15, Example 11, lines 15-20).

The instant claims differ from the reference by reciting a dyeing composition comprising at least one coupler of m-phenylenediamine of a claimed formula (I) in which R is a moiety selected from the claimed formulae (2), (3) or (4). The reference also does not teach or disclose the species of 2-(4,5-diaminopyrazol-1-yl)-ethanol as claimed in claims 2-3, 5-6, 8-9, 11-12, 14-15 and 17-18.

However, the primary reference teaches a hair dyeing composition comprising the genus of m-phenylenediamine as a coupler (see col. 2, line 36).

Rose (US' 325) in analogous art of hair dyeing compositions teaches a composition comprising a coupler of N-phenylbenzene-1,3-diamine of a formula (I) which is similar to the claimed formula (I), when in the reference's formula (I), all R¹, R², R³ and R⁴ are represent hydrogen atoms as claimed in claims 1, 3-4, 6-7, 9-10 and 12 (see col. 2, formula (I) and lines 16-23) and when in the claimed formula (I), R is selected from the formula (2) in which all R¹ to R⁵ are represent hydrogen atoms.

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Therefore, in view of the teaching of the secondary reference, one having ordinary skill in the art at the time the invention was made would be motivated to modify the primary reference by incorporating the m-phenylenediamine couplers as taught by Rose to make such a composition. Such modification would be obvious because the primary reference suggests the use of the genus m-phenylenediamine as a coupler in the composition (see col. 2, line 36) and the secondary reference teaches the species of N-phenylbenzene-1,3-diamine which represented by the formula (I) (see col. 2, formula (I)), and, thus, a person of an ordinary skill in the art would be motivated to select any of the species of the genus that taught by Rose, including those of the claims, because an ordinary artisan would have the reasonable expectation that any of the species of the genus would have similar properties and thus, the same use as the genus as a whole.

With respect to claims 2-3, 5-6, 8-9, 11-12, 14-15 and 17-18, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make such a composition by incorporating the compound of 2-(4,5-diaminopyrazol-1-yl)-ethanol as a primary intermediate in the composition because the primary reference of Clausen teaches a diaminopyrazol compound of the formula (I) wherein R^1, R^2, R^3 and R^4 having the same limitations of R^6, R^7 and R^8 of the claimed formula (5). Therefore, the compound of 2-(4,5-diaminopyrazol-1-yl)-ethanol may read on the reference's formula as well and, thus, a person of the ordinary skill in the art would expect such a composition to have similar properties to those claimed, absent unexpected results.


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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-0661. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Eisa Elhilo
Patent Examiner
Art Unit 1751

September 22, 2003